



# HOUSE BILL 177: Clean Energy Transportation Act

2011-2012 General Assembly

**Committee:** Senate Commerce  
**Introduced by:** Reps. Samuelson, McElraft  
**Analysis of:** PCS to Second Edition  
H177-CSTA-4 [v.4]

**Date:** May 31, 2012  
**Prepared by:** Jennifer Mundt  
Legislative Analyst

**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 177 would:*

- *Direct the Department of Public Instruction to purchase new school buses that operate on compressed natural gas (CNG).*
- *Direct the Department of Transportation to purchase new  $\frac{3}{4}$  ton and  $\frac{1}{2}$  ton pick-up trucks that operate on CNG or CNG and gasoline.*
- *Create an interagency task force to establish public-private partnerships for the construction and development of CNG fueling infrastructure.*
- *Establish criteria for the operation of electric vehicle charging stations at State-owned rest stops along the highways.*
- *Amend the Energy Jobs Act of 2011 should it become law.*
- *Amend the production tax credit for renewable fuel facilities.*

A handwritten signature in black ink, appearing to read "Mundt", with a long, sweeping underline.

**BILL ANALYSIS:** The PCS for House Bill 177 would:

**Section 1:** direct the Department of Public Instruction to purchase passenger- and transit-style school buses that operate on compressed natural gas (CNG) when replacing school buses due to age, mileage, condition, unique circumstances, or other condition necessitating the replacement of a school bus. This section would also direct the Department to work with local school administrative units to develop a plan to deploy CNG buses throughout the State.

**Section 2:** direct the Department of Transportation to purchase new  $\frac{3}{4}$  ton and  $\frac{1}{2}$  ton pick-up trucks that operate on either CNG or CNG and gasoline by establishing a schedule for the purchase of CNG or bi-fuel pickup trucks. This section also directs the Department to report to various legislative oversight committees on the implementation of this program.

**Section 3:** direct the Departments of Public Instruction, Transportation, Commerce, and Administration, in consultation with other agencies as applicable, to create an interagency task responsible for establishing public-private partnerships with the CNG industry to develop CNG fueling infrastructure to support the operation of school buses and pick-up trucks purchased in accordance with Sections 1 and 2 of this act. The task force would be responsible for evaluating the feasibility and efficacy of the construction and operation of centralized public-private fueling stations and any other fueling options to support the operation of the State's CNG vehicles.

**Section 4:** establish the following criteria for the operation of electric vehicle charging stations at State-owned rest stops along the highways:

- The charging stations must be accessible by the public.

- The Department of Transportation must develop a mechanism to charge the user of the charging station a fee to recover the costs of the electricity consumed, processing fees, and operations and maintenance.

**Section 5:** amend the Energy Jobs Act of 2011 if it were to become law as follows:

- Directs the Governor to develop a regional strategy with the Governors of South Carolina and Virginia for the exploration, development, and production of commercially viable federal and state offshore energy resources within the three-state region and report on the strategy to the President Pro Tempore and the Speaker of the House.
- Amends some of the qualifications and the timeframe for appointments made to the Energy Jobs Council.

**Section 6:** amend the production tax credit for renewable fuel facilities to provide that if in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is used for the production of any other product other than its original intended use, the credit expires and the taxpayer may not take any remaining installment of the credit. This amendment would remove the provision in current law that the expiration of the credit is predicated on the facility being disposed of or taken out of service. This section would become effective when the act becomes law and would expire January 1, 2013.

**EFFECTIVE DATE:** Except as noted above, this act would become effective when it becomes law.

HI77-SMTA-11(CSTA-4) v2

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**H**

**HOUSE BILL 177  
Committee Substitute Favorable 6/2/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H177-CSTA-4 [v.4]**

5/30/2012 5:00:54 PM

Short Title: Clean Energy Transportation Act.

(Public)

Sponsors:

Referred to:

February 24, 2011

A BILL TO BE ENTITLED

AN ACT TO: (1) DIRECT THE DEPARTMENT OF PUBLIC INSTRUCTION TO PURCHASE SCHOOL BUSES THAT OPERATE ON COMPRESSED NATURAL GAS (CNG); (2) DIRECT THE DEPARTMENT OF TRANSPORTATION TO PURCHASE NEW THREE-QUARTER TON PICKUP TRUCKS AND NEW ONE-HALF TON PICKUP TRUCKS THAT OPERATE ON COMPRESSED NATURAL GAS (CNG) OR COMPRESSED NATURAL GAS (CNG) AND GASOLINE; (3) CREATE AN INTERAGENCY TASK FORCE TO ESTABLISH PUBLIC-PRIVATE PARTNERSHIPS FOR THE CONSTRUCTION AND DEVELOPMENT OF COMPRESSED NATURAL GAS (CNG) FUELING INFRASTRUCTURE; (4) ESTABLISH CRITERIA FOR THE OPERATION OF ELECTRIC VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST STOPS ALONG THE HIGHWAYS; (5) AMEND THE ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT OF 2011 BECOMES LAW; AND (6) AMEND THE PRODUCTION TAX CREDIT FOR RENEWABLE FUEL FACILITIES.

The General Assembly of North Carolina enacts:

**PART I. DIRECT THE DEPARTMENT OF PUBLIC INSTRUCTION TO PURCHASE SCHOOL BUSES THAT OPERATE ON COMPRESSED NATURAL GAS (CNG)**

**SECTION 1.(a)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2013, the Department of Public Instruction shall purchase only passenger school buses (Types A and B) and transit-style school buses (Type D) that operate on compressed natural gas (CNG) to replace Type A, B, and D school buses due to the age, mileage, condition, unique circumstances, or other condition necessitating replacement of a school bus.

**SECTION 1.(b)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2015, the Department of Public Instruction shall purchase only passenger school buses (Types A and B), transit-style school buses (Type D), and conventional-style school buses (Type C) that operate on compressed natural gas (CNG) to replace school buses due to the age, mileage, condition, unique circumstances, or other condition necessitating replacement of a school bus.

**SECTION 1.(c)** No later than December 1, 2012, the Department of Public Instruction, in consultation with local school administrative units, shall develop a plan for the



deployment of compressed natural gas (CNG)-fueled buses purchased in accordance with subsections (a) and (b) of this section to local school administrative units based on the following considerations:

- (1) The availability of centralized fueling infrastructure.
- (2) The ability of a local school administrative unit to operate and maintain compressed natural gas (CNG)-fueled buses.
- (3) The characteristics of a local school administrative unit such as the geographic size, the density of the student population, and the number and average length of bus routes.
- (4) Any other criteria the Department of Public Instruction deems necessary and applicable to implement this section.

**SECTION 1.(d)** This section shall not apply to noninstructional activity school buses purchased by a local school administrative unit with local or community funds.

**SECTION 1.(e)** Beginning January 1, 2013, and annually thereafter, the Department of Public Instruction shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative Education Oversight Committee, the House Appropriation Subcommittee on Education, and the Senate Appropriations Subcommittee on Education/Higher Education on the implementation of this section.

## **PART II. DIRECT THE DEPARTMENT OF TRANSPORTATION TO PURCHASE NEW THREE-QUARTER TON PICKUP TRUCKS AND NEW ONE-HALF TON PICKUP TRUCKS THAT OPERATE ON COMPRESSED NATURAL GAS (CNG) OR COMPRESSED NATURAL GAS (CNG) AND GASOLINE**

**SECTION 2.(a)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2013, fifty percent (50%) of the new three-quarter ton pickup trucks purchased by the Department of Transportation shall be manufactured by an original equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty and be capable of operating on compressed natural gas (CNG) or compressed natural gas (CNG) and gasoline.

**SECTION 2.(b)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2015, one hundred percent (100%) of the new three-quarter ton pickup trucks purchased by the Department of Transportation shall be manufactured by an original equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty and be capable of operating on compressed natural gas (CNG) or compressed natural gas (CNG) and gasoline.

**SECTION 2.(c)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2014, fifty percent (50%) of the new one-half ton pickup trucks purchased by the Department of Transportation shall be manufactured by an original equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty and be capable of operating on compressed natural gas (CNG) or compressed natural gas (CNG) and gasoline.

**SECTION 2.(d)** Notwithstanding any other provision of law and with funds available, beginning July 1, 2016, one hundred percent (100%) of the new one-half ton pickup trucks purchased by the Department of Transportation shall be manufactured by an original equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty and be capable of operating on compressed natural gas (CNG) or compressed natural gas (CNG) and gasoline.

**SECTION 2.(e)** Notwithstanding any other provision of law and with funds available, the Department of Transportation shall ensure that at least fifty percent (50%) of the fuel used annually by the Department's three-quarter ton pickup trucks and one-half ton pickup

trucks that are capable of operating on both compressed natural gas (CNG) and gasoline shall be compressed natural gas (CNG).

**SECTION 2.(f)** Beginning January 1, 2014, and annually thereafter, the Department of Transportation shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative Transportation Oversight Committee, the House Appropriations Subcommittee on Transportation, and the Senate Appropriations Subcommittee on Department of Transportation on the implementation of this section.

**PART III. CREATE AN INTERAGENCY TASK FORCE TO ESTABLISH PUBLIC-PRIVATE PARTNERSHIPS FOR THE CONSTRUCTION AND DEVELOPMENT OF COMPRESSED NATURAL GAS (CNG) FUELING INFRASTRUCTURE**

**SECTION 3.(a)** The Department of Public Instruction, the Department of Transportation, the Department of Commerce, and the Department of Administration, in consultation with other agencies as applicable, shall create an interagency task force responsible for establishing public-private partnerships with the compressed natural gas (CNG) industry to develop compressed natural gas (CNG) fueling infrastructure to support the operation of the vehicles purchased pursuant to Sections 1 and 2 of this act. The task force, together with private industry, shall evaluate the feasibility and efficacy of the construction and operation of centralized public-private fueling stations and any other fueling options that may be necessary to support the operation of each Department's compressed natural gas (CNG) vehicles.

**SECTION 3.(b)** Beginning January 1, 2013, and annually thereafter, the task force shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative Transportation Oversight Committee, the Joint Legislative Education Oversight Committee, the House Appropriations Subcommittee on Transportation, the Senate Appropriations Subcommittee on Department of Transportation, the House Appropriation Subcommittee on Education, the Senate Appropriations Subcommittee on Education/Higher Education, the House Appropriations Subcommittee on General Government, and the Senate Appropriations Subcommittee on General Government and Information Technology on the implementation of this section.

**PART IV. ESTABLISH CRITERIA FOR THE OPERATION OF ELECTRIC VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST STOPS ALONG THE HIGHWAYS**

**SECTION 4.(a)** The Department of Transportation may operate an electric vehicle charging station at State-owned rest stops along the highways only if all of the following conditions are met:

- (1) The electric vehicle charging station is accessible by the public.
- (2) The Department has developed a mechanism to charge the user of the electric vehicle charging station a fee in order to recover the cost of electricity consumed, the cost of processing the user fee, and a proportionate cost of the operation and maintenance of the electric vehicle charging station.

**SECTION 4.(b)** If the cost of the electricity consumed at the electric vehicle charging stations cannot be calculated as provided by subsection (a) of this section, the Department shall develop an alternative mechanism, other than electricity metering, to recover the cost of the electricity consumed at the vehicle charging station.

**SECTION 4.(c)** The Department may consult with other State agencies and industry representatives in order to develop the mechanisms for cost recovery required pursuant to subsection (a) of this section.

SECTION 4.(d) Beginning January 1, 2013, and annually thereafter, the Department of Transportation shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative Transportation Oversight Committee, the House Appropriations Subcommittee on Transportation, and the Senate Appropriations Subcommittee on Department of Transportation on the implementation of this section.

**PART V. AMEND THE ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT OF 2011 BECOMES LAW**

SECTION 5.(a) If Senate Bill 709 of the 2011 Regular Session becomes law, Sections 2(a), 2(b), and 2(c) of Senate Bill 709 read as rewritten:

"SECTION 2.(a) Development of ~~Governors'~~ Regional Interstate Offshore Energy Policy Compact. – The Governor ~~is directed to commence~~ shall lay the groundwork for development of a regional energy ~~compact strategy by working~~ with the governors of South Carolina and Virginia ~~in order to develop recommendations for creation and implementation of~~ a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's General Assembly. During the development of these compact recommendations, the Governor is authorized to work directly with each of the three states' General Assemblies, Congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

- (1) Ensure a timely review and consideration of permits and proposals at both the state and federal level for both state and federal waters adjacent to each state in the three-state region for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.
- (2) Amend the Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.
- (3) Advocate proactively with each state's Congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.
- (4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, six of whom are to be one member and one alternate member from each of North Carolina, Virginia, and South Carolina.

"SECTION 2.(b) No later than three months after the effective date of this act, and at least every three months thereafter, the Governor shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to

1 include providing copies of correspondence and other relevant materials to or from the Office  
2 of the Governor when the correspondence or materials pertain to the subject under this section  
3 or to any requirement under this section. The Governor shall report ~~her~~ the Governor's final  
4 recommendations for the three-state energy compact regional energy strategy to the Joint  
5 Regulatory Reform Committee no later than May 1, 2012. President Pro Tempore of the Senate  
6 and the Speaker of the House of Representatives no later than December 31, 2012.

7 "SECTION 2.(c) In addition to the provisions in Sections 2(a) and 2(b) of this act, the  
8 Governor is strongly encouraged to join the Governors of Alaska, Texas, Louisiana,  
9 Mississippi, and Virginia and any others who may sign on to the Outer Continental Shelf  
10 Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the  
11 coastal state governors and the federal government on offshore energy issues important to the  
12 future of North Carolina and the United States."

13 SECTION 5.(b) If Senate Bill 709 of the 2011 Regular Session becomes law,  
14 Sections 3(a) and 3(b) of Senate Bill 709 are repealed.

15 SECTION 5.(c) If Senate Bill 709 of the 2011 Regular Session becomes law,  
16 G.S. 113B-3, as amended by Senate Bill 709, reads as rewritten:

17 "**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

18 (a) The Energy Jobs Council shall consist of 12 members to be appointed as follows:

19 (1) Repealed.

20 (2) Repealed.

21 (2a) The Secretary of Commerce.

22 (3) Eleven public members who are citizens of the State of North Carolina and  
23 who are appointed in accordance with subsection (c) of this section.

24 (b) Appointments to the Energy Jobs Council shall be made by ~~October 1,~~  
25 2011, September 1, 2012, and the appointed members shall serve four-year terms.  
26 Appointments made by the President Pro Tempore of the Senate and the Speaker of the House  
27 of Representatives shall be allowed when the General Assembly is not in session.

28 (c) The public members of the Energy Jobs Council shall have the qualifications and  
29 shall be appointed as follows:

30 (1) One member shall be a representative of an investor-owned electric public  
31 utility, to be appointed by the Governor.

32 (2) One member shall be a geologist experienced in ~~offshore~~ natural gas and  
33 associated hydrocarbon exploration, development, and production, to be  
34 appointed by the Governor.

35 (3) One member shall be a representative of an investor-owned natural gas  
36 public utility, to be appointed by the President Pro Tempore of the Senate.

37 (4) One member shall be an energy economist or a person with experience in the  
38 financing or business development or an energy-related business, to be  
39 appointed by the President Pro Tempore of the Senate.

40 (5) One member shall be a geologist with experience in hydrocarbon resource  
41 evaluation and geophysical data acquisition, to be appointed by the President  
42 Pro Tempore of the Senate.

43 (6) One member shall be an industrial energy consumer, to be appointed by the  
44 Speaker of the House of Representatives.

45 (7) One member shall be knowledgeable of alternative and renewable sources of  
46 energy, other than wind energy, to be appointed by the Speaker of the House  
47 of Representatives.

48 (8) One member who has experience in trucking, rail, or shipping transportation,  
49 to be appointed by the Speaker of the House of Representatives.

50 (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

- 1 (10) One member shall be a representative with experience in wind energy, to be  
2 appointed by the Governor.  
3 (11) One member shall be a representative with experience in environmental  
4 management, appointed by the Speaker of the House of Representatives.  
5 (12) One member shall be ~~involved with the biofuels industry,~~experienced in  
6 energy policy, to be appointed by the President Pro Tempore of the Senate."  
7

8 **PART VI. AMEND THE PRODUCTION TAX CREDIT FOR RENEWABLE FUEL**  
9 **FACILITIES**

10 **SECTION 6.** G.S. 105-129.16D(b) reads as rewritten:

11 "(b) Production Credit. – A taxpayer that constructs and places in service in this State a  
12 commercial facility for processing renewable fuel is allowed a credit equal to twenty-five  
13 percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire  
14 credit may not be taken for the taxable year in which the facility is placed in service but must  
15 be taken in seven equal annual installments beginning with the taxable year in which the  
16 facility is placed in service. If, in one of the years in which the installment of a credit accrues,  
17 the facility with respect to which the credit was claimed is ~~disposed of or taken out of service,~~  
18 used for the production of any other product other than its original intended use, the credit  
19 expires and the taxpayer may not take any remaining installment of the credit. The taxpayer  
20 may, however, take the portion of an installment that accrued in a previous year and was  
21 carried forward to the extent permitted under G.S. 105-129.17."  
22

23 **PART VII. EFFECTIVE DATE**

24 **SECTION 7.** Section 6 of this act becomes effective when this act becomes law  
25 and expires January 1, 2013. The remainder of this act is effective when it becomes law.